

Gibson-Banks Center for Race and the Law

**Testimony *in Support* of Senate Bill 134
Office of the Attorney General - Correctional Ombudsman Unit**

To: Senator William C. Smith, Jr., Chair, and Members of the Senate Judicial Proceedings Committee

From: Brandon Miller, Ereik L. Barron Fellow, Gibson-Banks Center for Race and the Law, University of Maryland Francis King Carey School of Law

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I am a second-year student and the Ereik L. Barron Fellow at the Gibson-Banks Center for Race and the Law (“Gibson-Banks Center”) at the University of Maryland Francis King Carey School of Law. The Gibson-Banks Center works collaboratively to re-imagine and transform institutions and systems of racial and intersectional inequality, marginalization, and oppression. The Gibson-Banks Center supports Senate Bill 134 (“SB 134”), which would create the Correctional Ombudsman Unit in the Office of the Attorney General, dedicated to, *inter alia*, reviewing and assessing conditions, services, and operations in Maryland’s prisons; investigating issues related to these conditions, services, and operations; and protecting incarcerated individuals from inhumane and otherwise unlawful treatment.

The Correctional Ombudsman would help enhance the rehabilitative capacities of Maryland’s prisons while ensuring the extension of constitutional guarantees and basic human rights into those institutions. Specifically, the Ombudsman would investigate incarcerated individuals’ complaints, inspect prisons, publish public reports, and review correctional institutions’ policies and programs related to a variety of functions, including health services and restrictive housing. Through doing so, the Ombudsman would promote the democratic values of transparency and accountability. Indeed, these values are especially urgent in prisons, as incarcerated individuals are managed, supervised, handled, and ordered by correctional authorities and walled off from the rest of society.¹

The Gibson-Banks Center is attuned to—and appalled by—the grossly disproportionate impact of carceral institutions on Black Marylanders. It is now well known that 71 percent of

¹ See e.g., Michele Dietch, *But Who Oversees the Overseers?: The Status of Prison and Jail Oversight in the United States*, 47 AM. J. CRIM. L. 207, 218 (2021) (“Transparency and accountability are essential in prisons and jails where daily operations are overwhelmingly hidden from the public eye.”)

Maryland’s prison population is Black while only 31 percent of the state population is Black.² As a result, brutality in Maryland’s prisons is particularly harmful to Black people. Examples of such brutality are widespread and range from the acts of specific officers to institution-wide policies. Maryland correctional authorities have subjected incarcerated individuals to beatings and sexual violence.³ Incarcerated individuals have also been deprived of adequate healthcare and drug treatment services, as well as educational and vocational programming.⁴ Our incarcerated population is forced to live in deteriorating buildings with poor heating and air-conditioning systems, and rodent infestation.⁵ Through these conditions—and much more—Maryland’s overwhelmingly Black incarcerated population suffers racialized dehumanization.

Existing administrative remedy procedures are ineffective at producing changes that address the concerns and issues raised by incarcerated individuals as well as their family members. The process is run by correctional authorities, who often tend to shield their co-workers from accountability. Moreover, at various stages of the grievance filing process, incarcerated individuals are discouraged from continuing.⁶ SB 134 would provide a more objective, reliable, and reasonable channel to address incarcerated individuals’ complaints. Enabling the Correctional Ombudsman to receive and investigate complaints guards against stagnation, complacency, bias, and corruption in the administration of Maryland’s prisons and jails and invests each legitimate grievance with the possibility of meaningful redress.

The rights of incarcerated individuals have been key concerns of civil rights activism for many decades. Reformers have tied the struggle for racial justice in society at large to the struggle against racial abuse and degradation in prisons. From this perspective, incarcerated individuals who speak up against inhumanity are descendants of the civil rights movement. Their courage in protesting abusive and powerful authorities is in important ways comparable to the courage of Black people against the ravages of Jim Crow. By establishing a Correctional Ombudsman Unit in the Office of the Attorney General, SB 134 would accommodate such important demands for dignity and thereby further the cause of racial justice.

The benefits of the Correctional Ombudsman would not be limited to prisons and jails. How individuals are treated in prison impacts public safety. The lack of mental health, medical, and drug treatment services, and the lack of skills training have been linked to reentry challenges.⁷ By guiding prisons and jails toward needed reforms with rehabilitative effects, the Ombudsman

² JUSTICE POLICY INSTITUTE, *THE RIGHT INVESTMENT 2.0: HOW MARYLAND CAN CREATE SAFE AND HEALTHY COMMUNITIES* 4 (2024).

³ *E.g.*, *Office of the Attorney General- Correctional Ombudsman: Hearing on S.B. 87 Before the S. Comm. on Judicial Proceedings*, 2023 Leg., 445th Sess. (Md. 2023) (written testimony of Donald Bovello) (“It is a common practice for correctional officers to beat inmates into compliance with what correctional officers want them to do . . .”). *See also* CBS Baltimore Staff, *Former Maryland Correctional Institution officer pleads guilty to sexual assaults*, CBS NEWS (June 20, 2023), <https://www.cbsnews.com/baltimore/news/former-maryland-correctional-institution-officer-pleads-guilty-to-sexual-assaults/>.

⁴ Ben Conarck, *A corrections ombudsman? Support building for bill that could reshape the Maryland prison system*, BALTIMORE BANNER (Nov. 27, 2023), <https://www.thebaltimorebanner.com/community/criminal-justice/maryland-correctional-ombudsman-legislation-6WERQ5DPD5G5NMJ7RBTWBMPCII/>.

⁵ *Id.*

⁶ Bovello, *supra* note 3.

⁷ Andrea C. Armstrong, *No Prisoner Left Behind? Enhancing Public Transparency of Penal Institutions*, 25 STAN. L. & POL’Y REV. 435, 442 (2014).

would advance safety and stability in communities more generally. In this way, non-incarcerated citizens, especially those in Black communities most impacted by the criminal legal system and incarceration, are implicated in the stakes of SB 134.

It is unconstitutional and unjust for prison authorities to violate the rights of incarcerated individuals. The State is obligated to not only protect incarcerated individuals but to ensure their dignity and humanity. SB 134 creates the infrastructure to help honor this obligation. For these reasons, we ask for a favorable report on SB 134.

This written testimony is submitted on behalf of the Gibson-Banks Center for Race and the Law at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.